IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 23859 of 2004

Between:

Maddisetty Madhusudhan Rao, S/o.Somasunder Rao,
R/o.Balaji Nagar, Nellore, Nellore District.

... PETITIONER

AND

The Special officer, Nellore Municipal Corporation, Nellore,

Nellore District.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, direction or order more particularly one in the nature of writ of mandamus declaring the action of the respondent in seeking to dispossess the petitioner from the premises and shed bearing Door No.18/470, Adyakshamvari Street, Chinna Bazaar, Nellore, where in "Sri Venkateswara Food Company" is being run by petitioner is illegal, arbitrary, high handed, unjust and in violation of Articles 14, 21 of Constitution of India and provisions of Municipal Corporation Act and principles of Natural Justice and consequently direct the respondent not to take steps to dispossess the petitioner from the said premises other wise than by due process of law.

Counsel for the Petitioner: MR.M.VENKATA NARAYANA

Counsel for the Respondent: MR.S.NAGESWARA REDDY, S.C. for Municipal Corporation

The Court, at the admission stage, made the following:

ORDER:

This writ petition is filed to declare the action of the respondent in seeking to dispossess the petitioner from the premises and shed bearing Door No.18/470,Adyakshamvari Street, Chinna Bazar, Nellore District as illegal and arbitrary and to direct the respondent not to dispossess the petitioner without following the due process of law.

2. Heard the learned counsel for the petitioner and the learned standing counsel appearing on behalf of the respondent, and with their consent, the writ petition is being disposed of finally at the admission stage.

3. Petitioner claims that he is a licensee of the site in the vegetable market of the respondent situated in Chinna Bazar, Nellore prior to 1996, which was subsequently shifted to Madras Bus Stand in 1996, which according to the petitioner, was abandoned by the respondent. It is the case of the petitioner that he occupied an extent of about 14 ankanams and had put up a shed in the year 1999 enabling him to run fruit business. The said fruit business is being run under the name and style of 'Sri Venkateswara Fruit Company' under the A.P. Shops and Establishments Act. Petitioner submits that he obtained electricity and telephone connections and had been paying the charges to the respective departments. It is alleged that the officials of the respondent are threatening the petitioner with forcible eviction without issuing any notice to him. Hence, the present writ petition.

3. Having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition with the following direction.

4. The respondent, before proceeding to evict the petitioner from the schedule land, shall follow the due procedure prescribed under law, in that, a notice calling for the explanation of the petitioner shall be issued, and after considering the explanation

that may be submitted by him, pass appropriate orders and take action in accordance therewith. Till such time, status quo obtaining as on today shall be maintained.

The writ petition is accordingly disposed of at the admission stage.

N.V. RAMANA, J

December 23, 2004

MRR / TVK

To:

1. The Special officer, Nellore Municipal Corporation, Nellore,

Nellore District.

2. Two C.D. Copies